

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

KIMBERLY LOKEN)	
Claimant)	
VS.)	
)	
WAL-MART)	Docket Nos. 198,095
)	& 198,096
Respondent)	
AND)	
)	
NATIONAL UNION INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Steven J. Howard on September 26, 1996.

ISSUES

The Administrative Law Judge found that claimant failed to establish she had sustained an accidental injury arising out of and in the course of her employment and had failed to establish that her alleged current condition is causally related to her claimed accidental injuries. Claimant challenges those findings by the Administrative Law Judge and argues that the case should be considered compensable.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds that the Order by the Administrative Law Judge should be affirmed.

Claimant testified that she was first injured on September 11, 1992, when a box filled with men's jeans struck her in the back of the neck. Following this incident claimant was seen by Dr. Prendes. He told claimant to apply ice to her neck and back and, on a second visit, took x-rays. Claimant did not return for medical treatment after the second visit and missed no work until after the next alleged injury of April 18, 1994. Claimant testifies that on April 18, 1994, she suffered the second injury when she was struck by some carts on her right hip, causing the

left-side of her body to strike a wall. Claimant requested no medical treatment for this second incident.

In August 1994, approximately four months after the alleged second accident, claimant went on her own to Dr. Ridley. She complained of headaches, pains in her back, neck, hip, and arms with burning sensations and muscle spasms. Dr. Ridley's record of 1994 shows the following history:

"For about the last year she has had bad headaches. Three or four weeks ago she started getting sharp pain, almost like an electrical sensation that went through her entire body like a tingling sensation in her entire body but she has had some numbness and weakness in her right arm more so than anywhere else."

The history initially given did not relate the symptoms to any work-related accident. The dates of an onset do not match the alleged dates of accidents. Although claimant did give a different history in a later medical record, a history that relates to the work-related accidents, the initial history appears more reliable.

In addition, claimant now reports a collection of symptoms that are difficult to correlate with the alleged accidents. The Administrative Law Judge who heard her testify apparently did not accept her testimony. For these reasons the Appeals Board finds and concludes that the claimant has failed to sustain her burden in the award and the Order should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Steven J. Howard dated September 17, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of January 1997.

BOARD MEMBER

c: Kevin J. Kruse, Overland Park, KS
H. Wayne Powers, Overland Park, KS
Steven J. Howard, Administrative Law Judge
Philip S. Harness, Director